IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.386 OF 2005

State of Maharashtra ... Applicant

versus

Dhayandeorao K. Bhosale ... Respondent

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Mr.A.S.Gadkari, A.P.P., for the Applicant.

Mr.K.S. Patil, for the Respondent.

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CORAM : A.M.KHANWILKAR,J.

14th March 2005

P.C.:

. Heard Counsel for the parties. Perused the record. This application has been filed for cancellation of anticipatory bail granted to the Respondent by the Sessions Court, Greater Mumbai on 22nd April 2004 on the ground that the Respondent has not complied with any of the conditions of the bail order. It is asserted that the Respondent has not furnished personal

bond as well as solvent surety of like amount as directed by the lower Court. Besides, the Respondent did not make himself available for interrogation whenever required by the investigating officer. On affidavit, further particulars are given by the Applicant to show that summonses were issued to the Respondent on 1st June 2004 and 4th February 2005, which were accepted by the representative of the Respondent, namely, wife and son respectively. Inspite of service of these summonses, the Respondent did not appear before the investigating officer. Moreover, the Respondent avoided to give response to the telephone calls made by the investigating officer.

. To get over this position, the Respondent contends that the Respondent was always ready and willing to furnish personal bond as well as the solvent surety as directed by the lower Court. Besides, he has been regularly attending the police station along with his wife, who has also been named as accused in the same complaint. It is submitted that the present action is only a recovery proceeding against the Respondent. It

is contended that there are cross cases between the complainant and the Respondent, for which reason this application ought not to be entertained.

. Having considered the rival submissions and going through the record, I have no hesitation in taking the view that the Respondent has failed to comply with the conditions mentioned in the order passed by the lower Court granting anticipatory bail. The Respondent has offered his explanation. However, that stand is only word against word, whereas the Applicant has relied on documents to show that the Respondent was called upon to report to the investigating officer for the purpose of investigation and that the Respondent has failed to do so. The argument that the Respondent visited the police station along with his wife on several occasions does not meet the condition stipulated by the lower Court in the order passed in favour of the Respondent, or, the Respondent making himself available for interrogation purposes whenever required by the investigating officer.

. In the circumstances, the order of anticipatory bail operating in favour of the Respondent is set aside. The Respondent is, however, granted limited protection to surrender before the appropriate Court and apply for regular bail, if so advised. That be done on or before 18th March 2005. Respondent to give advance notice to the investigating officer. The application for regular bail, if filed, will be considered on its own merits in accordance with law. In the meantime, the Respondent shall report to the investigating officer daily between 5 p.m. to 7 p.m. till presentation of the regular bail application.

. Application disposed of on the above terms.

(A.M.KHANWILKAR,J.)